



Volume 7  
Number 1  
Spring 2010

# Vermont Fair Housing News

A Publication of

Vermont Human Rights Commission  
14-16 Baldwin Street • Montpelier, VT 05633-6301

& Fair Housing Project of CVOEO  
294 N. Winooski Avenue • Burlington, VT 05401

## WHAT'S INSIDE:

- Around the Nation p. 2
- Vermont HRC Fair Housing Cases p. 6
- Online Fair Housing Resources p. 7
- Trainings announced for municipal officials, realtors and others p. 8

## REASONABLE ACCOMMODATIONS\*

*A Possible Best Practices Policy for Property Owners & Managers*

When tenants with disabilities request an accommodation regarding some aspect of their living situation, this matter must be dealt with in a conscientious and systematic manner. Failure to do so can result in the tenant filing a discrimination charge with the Vermont Human Rights Commission.

Implementing the following procedures will help you, your staff and your organization fulfill your obligations under fair housing laws and help your tenants with disabilities achieve full use and enjoyment of their homes. This information is not meant to be construed as legal advice. Rather, this is information that could be helpful in formulating a reasonable accommodation request policy that can help prevent legal issues from arising.

*\*This article addresses "reasonable accommodations" and not "reasonable modifications." Though many of the requirements are similar there are some differences. For more information regarding "modifications" check out [www.hud.gov/offices/fheo/disabilities/reasonable modifications\\_mar08.pdf](http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf)*

Reasonable Accommodations continued on page 4...

## April is Fair Housing Month

All over the country, people celebrate Fair Housing during the month of April. Why is April Fair Housing Month? The federal Fair Housing Act, Title VIII of the 1968 Civil Rights Act, was signed by President Lyndon Johnson on April 11, 1968. Although Congress had regularly considered the fair housing bill during the two years prior to its passage, it took a national tragedy to propel it to the President's desk. The Fair Housing Act was signed just one week after the assassination of Rev. Dr. Martin Luther King Jr. President Johnson saw the Act as a fitting memorial to Dr. King's life work. The 1968 act prohibited discrimination concerning the sale, rental, and financing of housing based on race, color, religion, national origin, and sex. It was later amended to include disability and familial status.

The Department of Housing & Urban Development celebrated the Act's first anniversary in April 1969 with a gala event in the Grand Ballroom of New York's Plaza Hotel. HUD also completed the Title VIII Field Operations Handbook and instituted a formalized complaint process that year. In subse-

FH Month continued on page 7...



# Around the Nation

## TRANSGENDER COUPLE OBTAINS \$6000 IN HOUSING DISCRIMINATION SETTLEMENT

Samantha J. Cornell, a transgender woman, and her spouse Andrea V. Boisseau, who was born with an anatomical intersex condition, viewed an apartment in Oxford, Massachusetts with a real estate agent during the spring of 2008. The agent called them a few days later to inform the couple that the apartment had been rented to a "straight, single male." A subsequent investigation conducted by the Worcester Fair Housing Project found evidence that suggested the couple had been illegally discriminated against on the basis of their gender identity, sex, sexual orientation, marital status, and disability. These claims were included in the lawsuit brought against the landlords and real estate agent. The case was recently settled for a payment of \$6,000 and a requirement that the real estate agent undergo fair housing training.

"We filed this case because we believed what happened to us was discriminatory and based on biased perceptions of our sex," Boisseau said. "We are pleased that the case has resolved and hope it shows that everyone, regardless of gender identity, has a right to equal housing."

## \$2.7 MILLION SETTLEMENT IN CALIFORNIA HOUSING CASE

On November 12, 2009, a federal district court in California entered a consent order resolving a lawsuit in United States v. Sterling. The complaint, filed on August 7, 2006, alleged that Donald Sterling, Rochelle Sterling, the Sterling Family Trust, and the Korean Land Company, L.L.C. violated the Fair Housing Act on the basis of race, national origin and familial status by refusing to rent to non-Korean prospective tenants, misrepresenting the availability of apartment units to non-Korean prospective tenants, and providing inferior treatment to non-Korean tenants in the Koreatown section of Los Angeles. The complaint also alleged that the defendants refused to rent to African-American prospective tenants and misrepresented the availability of apartment units to African-American prospective tenants in the Beverly Hills section of Los Angeles. In addition, the complaint alleged that the defendants refused to rent to families with children and misrepresented the

availability of apartments to families with children throughout the buildings that they own or manage in Los Angeles County.

The order requires the defendants to: (1) pay a total of \$2.725 million in monetary damages and civil penalties; (2) implement a self-testing program over the next three years to monitor their employees' compliance with fair housing laws at their Los Angeles County properties; (3) maintain non-discriminatory practices and procedures; (4) obtain fair housing training for their employees who participate in renting, showing, or managing apartments at the Los Angeles County properties; and (5) pay for independent testers to monitor defendants' compliance with the federal Fair Housing Act.

## HUD CHARGES ALABAMA LANDLORD AND MANAGER WITH HOUSING DISCRIMINATION

In December 2009, the U.S. Department of Housing and Urban Development (HUD) charged a Marshall County, Alabama, manufactured home owner and rental manager with discriminating against a white family by disconnecting water service and forcing them to leave because the manager objected to interracial dating. According to the complaint, Phillip Maze, rental agent for his mother, Opal Maze, told a HUD investigator, "I do not have any blacks on my property and I am aware that we have a biracial president, but no federal law will make me rent to anyone I do not want to."

According to HUD's charge, in response to a visit from the African-American boyfriend of one of the family members, Phillip Maze told the family they had to move out, stated that he did not believe in interracial dating, and turned off the water to the manufactured home. When asked what it would take to turn the water back on, Mr. Maze allegedly told the family to get rid of the black boyfriend.

The HUD charge will be heard by a United States Administrative Law Judge who may award damages to the complainants and may also order injunctive relief and other equitable relief to deter further discrimination, as well as payment of attorney fees.

## HUD CHARGES LAS VEGAS REAL ESTATE BROKER AND OWNERS WITH DISCRIMINATING BASED ON THE PRESENCE OF CHILDREN

HUD announced in December that it charged

a Las Vegas real estate broker and two homeowners with violating the Fair Housing Act by denying a mother of seven the opportunity to rent a four-bedroom home because they thought she had too many children. The owners of the house instead rented to a couple with one child. The Fair Housing Act prohibits housing discrimination based on family status, including discrimination based on the number of children.

"Policies that unreasonably limit the number of people who can live in a home discriminate against families with children and violate the federal Fair Housing Act," said John Trasviña, HUD's Assistant Secretary for Fair Housing and Equal Opportunity. "HUD will take action in such cases, especially when those policies are used to keep larger families from obtaining housing."

According to HUD's charge, complainant Mayte Miranda sought to rent a four-bedroom house owned by respondents Victor and Remi During. A single parent of four, Ms. Miranda was in the process of adopting three foster children. When she submitted a rental application, the owners' agent, Mario Mascarinas of Realty One Group, allegedly told her, "I do not think that the owners will rent to that many children." Upon receiving Ms. Miranda's rental application, Mr. Mascarinas allegedly stated that the owner would allow a maximum of five children, even though the house could easily accommodate eight residents.

### **HUD CHARGES MASSACHUSETTS CONDO BOARD AND MANAGEMENT COMPANY WITH DISCRIMINATING BY FORCING FAMILIES TO PAY FOR CHILDREN TO PLAY**

The U.S. Department of Justice announced in February 2010 that it had filed a federal lawsuit in Massachusetts against Property Management of Andover, Inc., its property manager, Stonecleave Village Association, and its president, with unlawfully charging fees to parents for allowing their children to play in the common area.

The Fair Housing Act expressly prohibits housing discrimination on the basis of family status. In addition, the defendants are accused of retaliating against families by charging them \$437.50 for the Association's attorney fees for pursuing a discrimination complaint.

"These charges point to a disturbing practice where families were literally expected to pay to play," said John Trasviña, HUD Assistant Secretary for Fair Housing and Equal Opportunity. "It's clearly illegal to impose different rules and restrictions on families with children and then to retaliate against

them should they complain about their mistreatment."

The lawsuit was triggered by complaints of four families living at Stonecleave Village. Alleging that it received numerous complaints about loud behavior and playing of organized sports in the common area, the condo association's board designated a field in the rear of the complex for the children to play. The families were then informed that they were being fined \$10 a day for two days for children playing in the common area, \$10 a day for two days for allegedly causing damage, \$25 to reimburse for the damage and \$437.50 for attorney fees. Prior to this, the families had not received any fines or warning, and when an adult resident was having a party on the common grounds, no fine was issued.

### **PENNSYLVANIA FAIR HOUSING RIGHTS CENTER SETTLES ASSISTANCE ANIMAL LAWSUIT WITH PROPERTY OWNER/MANAGER**

In January 2010, the Fair Housing Rights Center of Southeastern Pennsylvania (FHRC), a private non-profit organization dedicated to ending housing discrimination, settled a fair housing suit against Michael Singer Real Estate. The real estate company owns and manages rental properties in two Pennsylvania counties.

In 2008, an FHRC tester was told by a Michael Singer Real Estate management employee that the agency would not waive its "No Dogs" policy for someone who had an assistance animal. Numerous additional tests at several Michael Singer Real Estate properties showed that multiple agents and multiple sites had a policy and practice of denying service animals, including dogs that assisted people with visual impairments, epilepsy, Deaf people and people with emotional disabilities.

The federal Fair Housing Act, which prohibits discrimination based on disability in housing-related transactions, mandates that people with disabilities who use assistance animals must be granted a reasonable accommodation to "no pets" policies. This is to ensure that people with disabilities who require assistance animals have the same housing options as everyone else. "The indignities that people living with disabilities suffer at the hands of uncooperative housing providers are unconscionable," said FHRC Executive Director, Angela McIver.

The settlement agreement requires Michael Singer Real Estate to change its policy, receive fair housing training, provide educational materials

1. A “reasonable accommodation request” does not have to be made in a specific way or on a specific form for it to be considered a valid reasonable accommodation request under fair housing law.
2. Respond to each reasonable accommodation request both in writing and by speaking with the tenant.
3. If a tenant with a qualifying disability makes a reasonable accommodation request there are very few legally allowable reasons to deny the request. Denial is allowed if the request would create an undue financial or administrative burden on you or your organization or if implementing the request would change the nature of your business.
4. If the tenant’s disability is not apparent you may ask for written verification from a person (usually a physician but the verification could be provided by a counselor or other person with appropriate knowledge of the disability) that the tenant has a qualifying disability and a description of the needed accommodation. You are not entitled to detailed medical information about the tenant. The requested accommodation must address a limitation that results from the qualifying disability.
5. You must respond in a timely manner to each reasonable accommodation request. Please note that the date of the reasonable accommodation request is not when you receive written verification but is the date the tenant first informed you, either orally or in writing, of a need for a reasonable accommodation.
6. HUD takes the position that the tenant has the best insight as to what he/she needs to accommodate his/her disability. However, if you decide to turn down the tenant’s reasonable accommodation request you are not done with the issue. You must engage in an interactive process with the tenant to explore whether there is some other way to accommodate the tenant’s need.
7. If you decide to grant the reasonable accommodation request, remember that you cannot apply different terms to that tenant than you do to other tenants. (e.g. charging a higher security deposit.) Because an assistance animal is NOT a pet, you cannot charge the tenant a pet security deposit. However, you

can require that a tenant who owns an assistance/emotional support animal follow reasonable rules for its care.

If an agreement cannot be reached by you and the tenant, the tenant might decide to file a complaint with the Human Rights Commission. One of the things an investigator will look at is whether or not you have followed the above steps. Many discrimination determinations are a result of a failure to follow the above-mentioned practices.

An issue that HRC has run into recently involves some property owners stating that their insurance companies will not allow a specific reasonable accommodation request. (E.g. some insurance companies have policies barring certain breeds of dogs or not allowing swimming pools.) The rationale has been that allowing the accommodation would increase the insurance company’s liability risk. When an insurance company states it may not renew or may discontinue a property owner’s insurance coverage if the property owner grants a reasonable accommodation that violates the terms of the insurance policy, the property owner must provide evidence that specifically demonstrates how the insurance company’s actions would create an undue financial burden. If the insurance company’s refusal does create an undue financial burden, the property owner still must explore with the tenant whether there are reasonable alternatives to the original reasonable accommodation request.

On the other hand, insurance companies need to fully understand that under fair housing law it may be engaging in illegal discrimination if it does not provide coverage for reasonable accommodations. This may require an insurance company to make adjustments in its coverage/policies in order to accommodate persons with disabilities. Some insurance companies have prohibited insuring specific breeds of dogs. Instead, if a dog of one of these breeds is an assistance animal, several of these insurance companies have made it a practice to conduct individual assessments to determine if each animal behaves appropriately. This is a much better approach to insurance underwriting than having a policy barring all dogs of certain



on reasonable accommodations to existing and future tenants, as well as reimburse the FHRC for costs expended during investigation in the amount of \$10,000.

## **MENTAL DISABILITY DISCRIMINATION LAWSUIT SETTLED**

Andres Trujillo is a person with a mental disability, schizo-affective disorder. Mr. Trujillo's mother, Patricia Cruz, called the Rock Creek Apartments in Albuquerque, New Mexico to inquire about housing for her son. Ms. Cruz asked the woman who answered her call whether the complex accepted Section 8 vouchers. The woman replied that it did and asked Ms. Cruz a number of questions about Mr. Trujillo, including whether he had a disability, the nature of his disability, whether he was capable of living alone, and whether he needed physical modifications to the apartment. At no time did Ms. Cruz or Mr. Trujillo request any modifications or accommodations.

Shortly thereafter, Ms. Cruz and Mr. Trujillo visited the office of the Rock Creek Apartments to inquire about an apartment. The owners of the apartment building, Woodrow and Ethel Guntharp, were present. Ms. Guntharp asked whether Mr. Trujillo had bipolar disorder, and stated that they had previously rented to a person with bipolar disorder, that it had not worked out, and that they did not want to rent to any more persons with bipolar disorder. Believing that Mr. and Ms. Guntharp were unwilling to rent an apartment to Mr. Trujillo, Ms. Cruz and Mr. Trujillo left the complex without being shown an apartment.

The lawsuit alleged that the Guntharps discriminated against Mr. Trujillo by making prohibited inquiries regarding the nature of Mr. Trujillo's disabilities, and by expressing a preference not to rent to persons with certain types of disability.

In December, the parties settled the suit with a requirement that the Guntharps contribute a total of \$3000 to a homeless shelter and the Roman Catholic Diocese of Santa Fe, and that the Guntharps and their employees attend fair housing training.

## **SETTLEMENT REQUIRES HOUSING PROVIDER TO CONSIDER RENTAL PAYMENT GUARANTEES AS MEETING INCOME REQUIREMENT**

In February 2010, a federal district court in New York accepted a settlement resolving United States v. Berk-Cohen Associates at Tor View Village Apartments, LLC. The U.S. Department of Justice alleged in its complaint that the defendant's refusal to accept rental guarantees from Loeb House, a local social service provider that assists people with mental disabilities, violated the Fair Housing Act. The complaint alleged further that the defendant should have allowed people with mental disabilities to include rental guarantees provided to them by social services organizations toward meeting the eligibility requirements to rent an apartment at the Tor View Village Apartments. Pursuant to the settlement agreement, the defendant has agreed to change its rental application income requirements to include reasonably verifiable income provided to applicants by accredited social service agencies that provide benefits to people with disabilities. The defendant has further agreed to advise its tenants promptly of this policy,

## **VERMONT HUMAN RIGHTS COMMISSION**

The mission of the Vermont Human Rights Commission is to promote full civil and human rights in Vermont. The Commission protects people from unlawful discrimination in housing, state government employment and public accommodations. The Commission pursues its mission by:

- Enforcing laws
- Mediating disputes
- Educating the public
- Providing information and referrals
- Advancing effective public policies on human rights

## **CVOEO & HRC GOES ELECTRONIC ONLY!**

Due to budgetary constraints (and sound ecological practices), the CVOEO Fair Housing Project and the Human Rights Commission have decided to publish this newsletter electronically and distribute it through email rather than printing hard copy. Please help us by forwarding this copy to your friends and business associates. If you are not on our email list, contact [FHnews@cvoeo.org](mailto:FHnews@cvoeo.org) and you will be added. CVOEO & HRC does not distribute its email list and will use your email address only to send you the Vermont Fair Housing News. Thank you for your help!

Limited printed copies available upon request.

# RECENT VERMONT HRC FAIR HOUSING CASES

- A local housing authority tenant with a disability alleged that the housing authority refused to address reported harassing behavior by the tenant's neighbor. The housing authority agreed to provide the complainant with a Section 8 Choice Housing Voucher and to assist the tenant in finding new appropriate housing.
- A tenant in a local community trust property, a mobile home park, alleged that she was discriminated against because of her disability when the community trust refused to grant her reasonable accommodation request. To settle this allegation the land trust agreed to allow this tenant extra time to complete outdoor maintenance and upkeep of her lot.
- A prospective tenant with multiple chemical sensitivities alleged that a property management company denied her the ability to rent a unit. She alleged that she asked the management company to refrain from using certain cleaning agents because of her sensitivities to those products, but the managers used the cleaning agents anyway. The management company alleged that they never denied her the apartment and that the apartment was still available for her to move into. The parties settled on an agreement that allowed the charging party to remain on the waiting list for this complex even if she continues to turn down units that become available.
- The Human Rights Commission found reasonable grounds to believe discrimination had occurred when a man applied to a housing program for newly released prisoners and was turned down because of his mental health disability and possible history of violence. The Commission found that the housing provider had based its rejection of the charging party on the fact that he had Tourettes Syndrome. The HRC also found that the respondent had not engaged in an individualized assessment of the charging party's alleged violent history. Fair housing law prohibits denying housing to a person because he/she has a mental health disability and the law requires that if a housing provider believes that a person might pose a "direct threat" to the safety of others, it must make an individualized assessment of that individual to determine if in fact he/she is a threat to others.
- The Human Rights Commission found reasonable grounds to believe that a property management company discriminated against a tenant with Multiple Chemical Sensitivity when it denied her reasonable accommodation request to move out of her ground floor apartment and into a second floor apartment. The charging party experienced ongoing symptoms that would indicate a mold problem in her apartment. The property management company decided to test the air quality in the charging party's apartment rather than move her to an available apartment. After denying her reasonable accommodation request and renting the second-floor apartment to a new tenant, the respondents failed to engage in an interactive process with the charging party as required under fair housing law.
- A local housing authority entered into a settlement agreement with a tenant who had requested a reasonable accommodation to reinstall her above-ground swimming pool on her property. The tenant had a doctor's verification that she needed the pool for low impact exercise during summer months. The housing authority agreed to allow her to reinstall her pool under certain safety conditions, to pay her \$3000 and to have its staff participate in fair housing training.

**The full text of HRC settlement agreements and reasonable grounds cases can be read at [hrc.vermont.gov](http://hrc.vermont.gov). ■**

quent years, the tradition of celebrating Fair Housing Month grew larger. Governors issued proclamations that designated April as “Fair Housing Month”, and schools across the country sponsored essay contests that focused upon fair housing issues.

In recent years, each region hosts its own celebrations, meetings, dinners, contests, and presentations that feature HUD, state and private fair housing experts and officials. These celebrations continue the spirit behind the original passage of the Act.

This newsletter is supported by funds provided by the U.S. Department of Housing & Urban Development

## ON-LINE RESOURCES FOR FAIR HOUSING

There are many online resources for information about fair housing issues. Here are some useful websites that will provide you with information and instruction.

### Vermont Human Rights Commission

[hrc.vermont.gov](http://hrc.vermont.gov)

### CVOEO Fair Housing Project

[www.cvoeo.org](http://www.cvoeo.org)

Click on *HOUSING*, then *FAIR HOUSING PROJECT*

### National Fair Housing Advocate On-Line

[www.fairhousing.com](http://www.fairhousing.com)

News, resources, cases, statutes and a lot more information about fair housing issues across the country.

### National Fair Housing Alliance

[www.nationalfairhousing.org](http://www.nationalfairhousing.org)

An organization devoted to promoting fair housing laws nationwide.

### Fair Housing Law

[www.fairhousinglaw.org](http://www.fairhousinglaw.org)

A site with information about fair housing laws and enforcement resources.

### National Association of Realtors Field Guide to Fair Housing

[www.realtor.org/libweb.nsf/pages/fg705](http://www.realtor.org/libweb.nsf/pages/fg705)

A guide to fair housing specifically aimed toward realtors.

### Vermont Department of Housing & Community Affairs Fair Housing Page

[www.dhca.state.vt.us/Housing/fairhousing.htm](http://www.dhca.state.vt.us/Housing/fairhousing.htm)

A discussion of fair housing as it applies to Vermont communities and municipalities.

### Department of Housing & Urban Development Office of Fair Housing & Equal Opportunity

[www.hud.gov/offices/fheo/index.cfm](http://www.hud.gov/offices/fheo/index.cfm)

Connects to HUD resources about enforcement of federal fair housing laws.

### Federal Fair Housing Act

[www.usdoj.gov/crt/housing/title8.htm](http://www.usdoj.gov/crt/housing/title8.htm)

The text of the federal Fair Housing Act.

### Vermont Fair Housing & Public Accommodations Act

[www.leg.state.vt.us/statutes/sections.cfm?](http://www.leg.state.vt.us/statutes/sections.cfm?Title=09&Chapter=139)

[Title=09&Chapter=139](http://www.leg.state.vt.us/statutes/sections.cfm?Title=09&Chapter=139)

The text of the Vermont Fair Housing & Public Accommodations Act.

### Findlaw

[www.findlaw.com](http://www.findlaw.com)

Findlaw is a general resource and search engine for legal issues, including civil rights issues, federal and state statutes and court cases.

### Bazon Center for Mental Health Law

[www.bazon.org/issues/housing/index.htm](http://www.bazon.org/issues/housing/index.htm)

Bazon has extensive resources and informational documents regarding aspects of mental health law, including extensive information about reasonable accommodations and service animals.

*There are many other webpages for nationwide, state and local fair housing organizations. Just type “fair housing” into any search engine to locate these other resources.*

Reasonable Accommodations continued from page 4...

breeds. Remember that a reasonable accommodation request is a request to make an exception to the standard operating policies/procedures.

A good general rule is if you are in doubt about a reasonable accommodation request and you cannot find information that directly addresses your situation, consider the intent of fair housing law when deciding how to proceed. **You may also call the Department of Justice, Civil Rights Division and speak with either Sara Niles or Lucy Carlson at 202-514-4713.**

Though they will not provide “legal advice,” they may be able to provide information about how other similarly situated cases have been resolved.

## CONTACT US!

The Vermont Fair Housing News is published twice annually, in the spring and fall. Please contact us if you would like to:

- Receive the Vermont Fair Housing News
- Submit ideas for articles
- Give us feedback
- Request a free fair housing speaker, training or workshop

You may contact us through:

**Ellen Maxon**, Editor  
Vermont Fair Housing News  
Vermont Human Rights Commission  
14-16 Baldwin Street  
Montpelier, VT 05633-6301

Voice telephone: 802-828-2480 or toll-free 800-416-2010

TTY: 802-828-1493 or toll-free 877-294-9200

E-Mail: [ellen.maxon@state.vt.us](mailto:ellen.maxon@state.vt.us)

## **Removing Barriers to Strengthen Communities: Affordable Housing and Affirmatively Furthering Fair Housing at the Local Level**

### **Our 2009-2010 schedule has ended, please contact us if you would like to host this workshop in 2010-2011!**

Designed to provide relevant information to realtors, lenders, affordable housing developers, property managers, and municipal officials, this workshop will:

- provide an introduction to Vermont and federal fair housing laws;
- address the current regulatory barriers to fair housing choice in Vermont;
- examine the legal requirements impacting municipal zoning practices;
- review available tools that enable municipalities to comply with those requirements; and
- explore planning concepts designed to encourage the development of affordable housing.

All municipalities receiving community development grants from the Vermont Community Development Program must complete a fair housing training as a condition of funding. Any municipality dealing with issues such as affordable housing, group homes, residential care facilities, requests for accessibility modifications, or seeking VCDP funding, cannot afford to miss this workshop. This training is free and open to the public.

Presented by:

**Ellen Maxon:** Investigator, Vermont Human Rights Commission

**Julie Kelliher:** General Counsel, Vermont Department of Economic, Housing, and Community Development

**Kevin Stapleton:** Director, CVOEO Fair Housing Project

**How to Register** – Call Dani Fuoco, CVOEO Fair Housing Project, 802-864-3334 x 109 or email [dfuoco@cvoeo.org](mailto:dfuoco@cvoeo.org)



